

HOUSE BILL No. 1447

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-3.5; IC 12-20-25; IC 36-8-19-8; P.L.146-2008, SECTION 840.

Synopsis: Property taxation. Reconciles differences among the laws enacted in the 2008 session of the general assembly, and does the following: (1) Specifies that a person may apply for the standard deduction on a sales disclosure form. (2) Establishes filing requirements for the property tax standard deduction that are similar to the filing requirements that applied to homestead credit applications. (3) Provides that an applicant for a standard deduction for a homestead may own (or have the other requisite interest in) the homestead on the date that a deduction application is filed, and permits the filing of an application at any time during the assessment year if the homestead is real property, and at any time before March 31 of the immediately following year if the homestead is a mobile home treated as personal property. (4) Merges the text of a definition related to the senior citizen tax limit credit into the credit law. (5) Standardizes the language describing a homestead in the standard deduction law, the circuit breaker credit law, and the senior citizen tax limit law so that it refers to a homestead that is eligible to receive a standard deduction. (6) Codifies a noncode provision that provides that an individual or entity that receives a standard deduction (or received a homestead credit) in a particular year and remains eligible for the standard deduction is not required to refile a statement to apply for the standard deduction. (7) Exempts nonelected school boards from the law requiring taxing units with nonelected governing bodies to have bond issues and leases
(Continued next page)

Effective: Upon passage; March 1, 2008 (retroactive); July 1, 2008 (retroactive); December 31, 2008 (retroactive); January 1, 2009 (retroactive); July 1, 2009.

Welch, Crawford, Turner, Davis

January 13, 2009, read first time and referred to Committee on Ways and Means.



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approved by the fiscal body of a county, city, or town. (8) Defines "registered voter" for purposes of the statute specifying who is eligible to sign a petition requesting a referendum for a controlled project. (9) Allows a civil taxing unit to increase its property tax levy in the first year in which the civil taxing unit participates in a fire protection territory. (10) Removes the expiration date for the county boards of tax adjustment. (11) Legalizes the method used by the department of local government finance to reduce the 2009 maximum permissible ad valorem property tax levy of taxing units that paid benefits to members of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund. Repeals a superseded definition. Makes other corrections. (The introduced version of this bill was prepared by the commission on state tax and financing policy.)

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1447

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-5.5-5, AS AMENDED BY P.L.144-2008,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 5. (a) The department of
4 local government finance shall prescribe a sales disclosure form for use
5 under this chapter. The form prescribed by the department of local
6 government finance must include at least the following information:
7 (1) The key number (as defined in IC 6-1.1-1-8.5) of each parcel.
8 (2) With respect to each parcel, whether the entire parcel is being
9 conveyed.
10 (3) The address of each improved parcel.
11 (4) The date of the execution of the form.
12 (5) The date the property was transferred.
13 (6) Whether the transfer includes an interest in land or
14 improvements, or both.
15 (7) Whether the transfer includes personal property.



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(8) An estimate of the value of any personal property included in the transfer.

(9) The name, address, and telephone number of:

(A) each transferor and transferee; and

(B) the person that prepared the form.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) Subject to subsection (c), the total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) A legal description of each parcel subject to the conveyance.

(17) Whether the transferee is using the form to claim ~~the following one (1) or more deductions under IC 6-1.1-12-44~~ for property taxes first due and payable in a calendar year after 2008.

~~(A) One (1) or more deductions under IC 6-1.1-12-44.~~

~~(B) The homestead credit under IC 6-1.1-20.9-3.5.~~

(18) If the transferee uses the form to claim the ~~homestead credit standard deduction~~ under ~~IC 6-1.1-20.9-3.5~~, **IC 6-1.1-12-37**, the name of any other county and township in which the transferee of residential real property owns or is buying residential real property.

(19) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in IC 6-1.1-12-43(c)(1).

(c) If the conveyance includes more than one (1) parcel as described in section 3(h) of this chapter, the form:

(1) is not required to include the price referred to in subsection

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(a)(13) for each of the parcels subject to the conveyance; and

(2) may state a single combined price for all of those parcels.

SECTION 2. IC 6-1.1-12-9, AS AMENDED BY P.L.144-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars (\$25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred eighty-two thousand four hundred thirty dollars (\$182,430);

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, 37.5, and 38 of this chapter; and

(7) the person:

(A) owns the real property, mobile home, or manufactured home; or

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~~(2)~~ (B) is buying the real property, mobile home, or manufactured home under contract; on the date the statement required by section 10.1 of this chapter is filed.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

- (1) one-half (1/2) of the assessed value of the real property; or
- (2) twelve thousand four hundred eighty dollars (\$12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

- (1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or
- (2) twelve thousand four hundred eighty dollars (\$12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

- (1) tenants by the entirety;
- (2) joint tenants; or
- (3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

- (1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;
- (2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;
- (3) the surviving spouse has not remarried; and
- (4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(7).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

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(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 3. IC 6-1.1-12-17.8, AS AMENDED BY P.L.144-2008, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, ~~or~~ 37 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, ~~or~~ 37 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which the individual claims the deduction is located of the individual's ineligibility in the year in which the individual becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, ~~or~~ 37 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, ~~or~~ 17.4, ~~or~~ 37 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of the property in a divorce decree.

(e) A trust entitled to a deduction under section 9, 11, 13, 14, 16, ~~or~~ 17.4, ~~or~~ 37 of this chapter for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:

- (1) the individual who occupies the real property receives a

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deduction provided under section 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter in a particular year; and

(2) the trust remains eligible for the deduction in the following year.

(f) A cooperative housing corporation (as defined in 26 U.S.C. 216) that was entitled to a deduction under section 37 of this chapter in the immediately preceding calendar year for a homestead (as defined in section 37 of this chapter) is not required to file a statement to apply for the deduction for the current calendar year if the cooperative housing corporation remains eligible for the deduction for the current calendar year.

(g) An individual or entity that:

(1) was eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2007, or January 15, 2008, assessment date; or

(2) would have been eligible for a homestead credit under IC 6-1.1-20.9 (repealed) for property taxes imposed for the March 1, 2008, or January 15, 2009, assessment date if IC 6-1.1-20.9 had not been repealed;

is not required to file a statement to apply for a deduction under section 37 of this chapter if the individual or entity remains eligible for the deduction in the current year. An individual or entity that filed for a homestead credit under IC 6-1.1-20.9 (repealed) for an assessment date after March 1, 2007, (if the property is real property) or after January 1, 2008, (if the property is personal property) shall be treated as an individual or entity that has filed for a deduction under section 37 of this chapter.

SECTION 4. IC 6-1.1-12-17.9, AS AMENDED BY P.L.101-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 17.9. A trust is entitled to a deduction under section 9, 11, 13, 14, 16, ~~or~~ 17.4, **or 37** of this chapter for real property owned by the trust and occupied by an individual if the county auditor determines that the individual:

(1) upon verification in the body of the deed or otherwise, has either:

(A) a beneficial interest in the trust; or

(B) the right to occupy the real property rent free under the terms of a qualified personal residence trust created by the individual under United States Treasury Regulation 25.2702-5(c)(2);

(2) otherwise qualifies for the deduction; and

(3) would be considered the owner of the real property under

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IC 6-1.1-1-9(f) or IC 6-1.1-1-9(g).

SECTION 5. IC 6-1.1-12-37, AS AMENDED BY P.L.146-2008, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence: ~~that:~~

(A) ~~that~~ is located in Indiana;

(B) ~~the individual:~~ **that:**

(i) **the individual** owns;

(ii) **the individual** is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; ~~or~~

(iii) **the individual** is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); **or**

(iv) **is a residence described in section 17.9 of this chapter that is owned by a trust in which the individual has a beneficial interest; and**

(C) ~~that~~ consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(b) Each year an individual who on March 1 of a particular year ~~or, in the case of a mobile home that is assessed as personal property, the immediately following January 15;~~ either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides the individual is to pay property taxes on the **individual or entity obligated to pay property taxes on a homestead for a particular assessment date** is entitled to a standard deduction from the assessed value of the homestead **for that assessment date. The deduction provided by this section applies only if the individual has an interest in the homestead described in subsection (a)(2)(B) on:**

(1) the assessment date, if section 17.8 of this chapter applies;

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(2) the date that a statement is filed under subsection (e) or section 44 of this chapter, if section 17.8 of this chapter does not apply.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the ~~person~~ **individual or entity** qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars (\$45,000).

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(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include the parcel number or key number of the property and the name of the city, town, or township in which the property is located. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. An individual who wishes to claim the deduction must list on the statement the name of any other county and township in which the individual owns or is buying residential real property. With respect to real property, the person must file the statement during the year for which the person desires to obtain the deduction. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction. If an individual who is receiving the deduction provided by this chapter changes

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the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who changes the use of the individual's property and fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection. The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section, including any application procedures necessary to prevent an individual from simultaneously claiming more than one (1) deduction under this section.

(f) The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

SECTION 6. IC 6-1.1-12-43, AS AMENDED BY P.L.145-2008, SECTION 9, AND AS AMENDED BY P.L.146-2008, SECTION 120, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 43. (a) For purposes of this section:

(1) "benefit" refers to

~~(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, or 34, 37, or 37.5 of this chapter; or~~

~~(B) the homestead credit under IC 6-1.1-20.9-2;~~

(2) "closing agent" means a person that closes a transaction;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers

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in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) This subsection applies to a transaction that is closed after December 31, 2009. In addition to providing the customer the form described in subsection (c) before closing the transaction, a closing agent shall do the following as soon as possible after the closing, and within the time prescribed by the department of insurance under IC 27-7-3-15.5:

(1) To the extent determinable, input the information described in IC 27-7-3-15.5(c)(2) into the system maintained by the department of insurance under IC 27-7-3-15.5.

(2) Submit the form described in IC 27-7-3-15.5(c) to the data base described in IC 27-7-3-15.5(c)(2)(D).

~~(f)~~ (f) A closing agent to which this section applies shall document ~~its~~ the closing agent's compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

~~(g)~~ (g) Subject to IC 27-7-3-15.5(d), a closing agent is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the

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1 closing agent fails to comply with this section with respect to a
2 customer. The penalty:

3 (1) may be enforced by the state agency that has administrative
4 jurisdiction over the closing agent in the same manner that the
5 agency enforces the payment of fees or other penalties payable to
6 the agency; and

7 (2) shall be paid into:

8 (A) the ~~property tax replacement~~ state general fund, if the
9 closing agent fails to comply with subsection (b); or

10 (B) the home ownership education account established by
11 IC 5-20-1-27, if the closing agent fails to comply with
12 subsection (e) in a transaction that is closed after December
13 31, 2009.

14 (h) A closing agent is not liable for any other damages claimed by
15 a customer because of:

16 (1) the closing agent's mere failure to provide the appropriate
17 document to the customer under subsection (b); or

18 (2) with respect to a transaction that is closed after December 31,
19 2009, the closing agent's failure to input the information or
20 submit the form described in subsection (e).

21 ~~(g)~~ (i) The state agency that has administrative jurisdiction over a
22 closing agent shall:

23 (1) examine the closing agent to determine compliance with this
24 section; and

25 (2) impose and collect penalties under subsection ~~(f)~~ (g).

26 SECTION 7. IC 6-1.1-12-44, AS ADDED BY P.L.144-2008,
27 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 44. (a) A sales disclosure
29 form under IC 6-1.1-5.5:

30 (1) that is submitted:

31 (A) as a paper form; or

32 (B) electronically;

33 on or before December 31 of a calendar year to the county
34 assessor by or on behalf of the purchaser of a homestead (as
35 defined in ~~IC 6-1.1-20-9-1~~ **section 37 of this chapter**) assessed
36 as real property;

37 (2) that is accurate and complete;

38 (3) that is approved by the county assessor as eligible for filing
39 with the county auditor; and

40 (4) that is filed:

41 (A) as a paper form; or

42 (B) electronically;

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with the county auditor by or on behalf of the purchaser;
constitutes an application for the deductions provided by sections 26,
29, 33, ~~and 34~~, **and 37** of this chapter with respect to property taxes
first due and payable in the calendar year that immediately succeeds
the calendar year referred to in subdivision (1).

(b) Except as provided in subsection (c), if:

(1) the county auditor receives in a calendar year a sales
disclosure form that meets the requirements of subsection (a); and
(2) the homestead for which the sales disclosure form is submitted
is otherwise eligible for a deduction referred to in subsection (a);
the county auditor shall apply the deduction to the homestead for
property taxes first due and payable in the calendar year for which the
homestead qualifies under subsection (a) and in any later year in which
the homestead remains eligible for the deduction.

(c) Subsection (b) does not apply if the county auditor, after
receiving a sales disclosure form from or on behalf of a purchaser
under subsection (a)(4), determines that the homestead is ineligible for
the deduction.

SECTION 8. IC 6-1.1-17-0.5, AS AMENDED BY P.L.144-2008,
SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2009 (RETROACTIVE)]: Sec. 0.5. (a) For purposes of
this section, "assessed value" has the meaning set forth in
IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax
duplicate for taxes payable in a calendar year the assessed value of
tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent
(9%) of the assessed value of all tangible property subject to
taxation by a taxing unit.

(2) The property is or has been part of a bankruptcy estate that is
subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business
operations on the property.

(4) There is a high probability that the taxpayer will not pay
property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the
property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor
may reduce for a calendar year the taxing unit's assessed value that is
certified to the department of local government finance under section
1 of this chapter and used to set tax rates for the taxing unit for taxes
first due and payable in the immediately succeeding calendar year. The

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1 county auditor may reduce a taxing unit's assessed value under this
 2 subsection only to enable the taxing unit to absorb the effects of
 3 reduced property tax collections in the immediately succeeding
 4 calendar year that are expected to result from any or a combination of
 5 the following:

6 (1) Successful appeals of the assessed value of property located
 7 in the taxing unit.

8 (2) Deductions under IC 6-1.1-12-37 **and IC 6-1.1-12-37.5** that
 9 result from the granting of applications for the ~~homestead credit~~
 10 **standard deduction** for the calendar year under ~~IC 6-1.1-20-9-3~~
 11 ~~or IC 6-1.1-20-9-3.5~~ **IC 6-1.1-12-37 or IC 6-1.1-12-44** after the
 12 county auditor certifies assessed value as described in this
 13 section.

14 (3) Deductions that result from the granting of applications for
 15 deductions for the calendar year under IC 6-1.1-12-44 after the
 16 county auditor certifies assessed value as described in this
 17 section.

18 Not later than December 31 of each year, the county auditor shall send
 19 a certified statement, under the seal of the board of county
 20 commissioners, to the fiscal officer of each political subdivision of the
 21 county and to the department of local government finance. The
 22 certified statement must list any adjustments to the amount of the
 23 reduction under this subsection and the information submitted under
 24 section 1 of this chapter that are necessary as the result of processing
 25 homestead credit applications and deduction applications that are filed
 26 after the county auditor certifies assessed value as described in this
 27 section. The county auditor shall keep separately on the tax duplicate
 28 the amount of any reductions made under this subsection. The
 29 maximum amount of the reduction authorized under this subsection is
 30 determined under subsection (e).

31 (e) The amount of the reduction in a taxing unit's assessed value for
 32 a calendar year under subsection (d) may not exceed two percent (2%)
 33 of the assessed value of tangible property subject to assessment in the
 34 taxing unit in that calendar year.

35 (f) The amount of a reduction under subsection (d) may not be
 36 offered in a proceeding before the:

37 (1) county property tax assessment board of appeals;

38 (2) Indiana board; or

39 (3) Indiana tax court;

40 as evidence that a particular parcel has been improperly assessed.

41 SECTION 9. IC 6-1.1-17-20.5, AS ADDED BY P.L.146-2008,
 42 SECTION 164, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 20.5. (a) This section applies to the governing body of a taxing unit unless a majority of the governing body is comprised of officials who are elected to serve on the governing body.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) **a school corporation; or**

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body.

(d) This subsection applies to a taxing unit not described in subsection (c). The governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.

SECTION 10. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.146-2008, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10.5. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19, if the civil taxing unit is a participating unit in a fire protection territory established before August 1, 2001. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter on a civil taxing unit that is a participating unit in a fire protection territory established before August 1, 2001, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(b) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under

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IC 36-8-19 for the three (3) calendar years in which the participating unit levies a tax to support the territory. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter for the three (3) calendar years for which the participating unit levies a tax to support the territory, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.

(c) This subsection applies to property taxes first due and payable after December 31, 2008. **Except as provided in subsection (d),** notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

(d) The limits specified in subsection (c) do not apply to a civil taxing unit in the first year in which the civil taxing unit becomes a participating unit in a fire protection territory established under IC 36-8-19. In the first year in which a civil taxing unit becomes a participating unit in a fire protection territory, the civil taxing unit shall submit its proposed budget, proposed ad valorem property tax levy, and proposed property tax rate for the fire protection territory to the local government tax control board. The local government tax control board shall review and make a recommendation to the department of local government finance on the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for that calendar year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for that calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. However, the department of local government finance may not approve under this subsection a property tax levy greater than zero (0) if the civil taxing unit did not exist as of the March 1 assessment date for which the tax levy will be imposed.

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For purposes of applying subsection (c) to the civil taxing unit's property tax levy for the fire protection territory in subsequent calendar years, the department of local government finance may determine not to consider part or all of the first year property tax levy imposed to establish an operating balance.

SECTION 11. IC 6-1.1-20-1.9, AS AMENDED BY P.L.146-2008, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.9. As used in this chapter, "registered voter" means the following:

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the proper officers of the political subdivision publish notice under section 3.1(b)(2) of this chapter of a preliminary determination by the political subdivision to issue bonds or enter into a lease.

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published under section 3.2(b)(1) of this chapter.

(3) In the case of a petition under section 3.5 of this chapter requesting the application of the local public question process under section 3.6 of this chapter concerning proposed debt service or lease payments, an individual who is registered to vote in the political subdivision on the date the proper officers of the political subdivision publish the preliminary determination under section 3.5(b)(2) of this chapter to issue bonds or enter into a lease.

~~(3)~~ **(4)** In the case of a public question held under section 3.6 of this chapter, an individual who is registered to vote in the political subdivision on the date that is thirty (30) days before the date of the election in which the public question will be held.

SECTION 12. IC 6-1.1-20.6-2, AS AMENDED BY P.L.146-2008, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) As used in this chapter, "homestead" ~~has the meaning set forth in~~ **refers to a homestead that is eligible for a standard deduction under IC 6-1.1-12-37.**

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(b) The term includes a house or apartment that is owned or leased by a cooperative housing corporation (as defined in 26 U.S.C. 216(b)).

SECTION 13. IC 6-1.1-20.6-8.5, AS ADDED BY P.L.146-2008, SECTION 225, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8.5. (a) ~~This section applies to property taxes first due and payable for a calendar year after December 31, 2008.~~ This section applies to an individual who:

(1) qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year (or was married at the time of death to a deceased spouse who qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year); ~~and~~

(2) qualifies for a standard deduction granted under IC 6-1.1-12-37 for the same homestead property in the current calendar year;

(3) is or will be at least sixty-five (65) years of age on or before December 31 of the calendar year immediately preceding the current calendar year; and

(4) had:

(A) in the case of an individual who filed a single return, adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding thirty thousand dollars (\$30,000); or

(B) in the case of an individual who filed a joint income tax return with the individual's spouse, combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding forty thousand dollars (\$40,000);

for the calendar year preceding by two (2) years the calendar year in which property taxes are first due and payable.

(b) This section does not apply if the gross assessed value of the homestead on the assessment date for which property taxes are imposed is at least one hundred sixty thousand dollars (\$160,000).

~~(b)~~ (c) An individual is entitled to an additional credit under this section for property taxes first due and payable for a calendar year on a homestead if:

(1) the individual and the homestead ~~qualifies as qualified homestead property qualify for the credit under subsection (a)~~ for the calendar year;

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(2) the homestead is not disqualified for the credit under subsection (b) for the calendar year; and

(3) the filing requirements under subsection (e) are met.

(c) (d) The amount of the credit is equal to the greater of zero (0) or the result of:

(1) the property tax liability first due and payable on the qualified homestead property for the calendar year; minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified homestead property for the immediately preceding year; multiplied by

(B) one and two hundredths (1.02).

However, property tax liability imposed on any improvements to or expansion of the homestead property after the assessment date for which property tax liability described in subdivision (2) was imposed shall not be considered in determining the credit granted under this section in the current calendar year.

(d) The following adjusted gross income limits apply to an individual who claims a credit under this section:

(1) In the case of an individual who files a single return, the adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual claiming the exemption may not exceed thirty thousand dollars (\$30,000):

(2) In the case of an individual who files a joint income tax return with the individual's spouse, the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of the individual and the individual's spouse may not exceed forty thousand dollars (\$40,000):

(e) Applications for a credit under this section shall be filed in the manner provided for an application for a deduction under IC 6-1.1-12-9. However, an individual who remains eligible for the credit in the following year is not required to file a statement to apply for the credit in the following year. An individual who receives a credit under this section in a particular year and who becomes ineligible for the credit in the following year shall notify the auditor of the county in which the homestead is located of the individual's ineligibility before June 11 of the year in which not later than sixty (60) days after the individual becomes ineligible.

(f) The auditor of each county shall, in a particular year, apply a credit provided under this section to each individual who received the credit in the preceding year unless the auditor determines that the individual is no longer eligible for the credit.

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SECTION 14. IC 6-1.1-29-1.1, IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2008 (RETROACTIVE)]: **Sec. 1.1. Except as provided in section 9 of this chapter, each county shall have a county board of tax adjustment composed of seven (7) members. The members of the county board of tax adjustment shall be selected as follows:**

(1) The county fiscal body shall appoint a member of the body to serve as a member of the county board of tax adjustment.

(2) Either the executive of the largest city in the county or a public official of any city in the county appointed by that executive shall serve as a member of the board. However, if there is no incorporated city in the county, the fiscal body of the largest incorporated town of the county shall appoint a member of the body to serve as a member of the county board of tax adjustment.

(3) The governing body of the school corporation, located entirely or partially within the county, that has the greatest taxable valuation of any school corporation of the county shall appoint a member of the governing body to serve as a member of the county board of tax adjustment.

(4) The remaining four (4) members of the county board of tax adjustment must be residents of the county and freeholders and shall be appointed by the board of commissioners of the county.

SECTION 15. IC 6-3.5-1.1-14, AS AMENDED BY P.L.146-2008, SECTION 328, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 14. (a) In determining the amount of property tax replacement credits civil taxing units and school corporations of a county are entitled to receive during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property that was assessed in that county.**

(b) If a civil taxing unit or a school corporation is located in more than one (1) county and receives property tax replacement credits from one (1) or more of the counties, then the property tax replacement credits received from each county shall be used only to reduce the property tax rates that are imposed within the county that distributed the property tax replacement credits.

(c) A civil taxing unit shall treat any property tax replacement credits that it receives or is to receive during a particular calendar year as a part of its property tax levy for that same calendar year for

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purposes of fixing its budget and for purposes of the property tax levy limits imposed by IC 6-1.1-18.5.

(d) Subject to subsection (e), if a civil taxing unit or school corporation of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which property tax replacement credits are being distributed, the civil taxing unit or school corporation is entitled to use the property tax replacement credits distributed to the civil taxing unit or school corporation for any purpose for which a property tax levy could be used.

(e) A school corporation shall treat any property tax replacement credits that the school corporation receives or is to receive during a particular calendar year as a part of its property tax levy for its debt service fund, capital projects fund, transportation fund, **and** school bus replacement fund ~~and special education preschool fund~~ in proportion to the levy for each of these funds for that same calendar year for purposes of fixing its budget. A school corporation shall allocate the property tax replacement credits described in this subsection to all ~~five~~ **(5) four (4)** funds in proportion to the levy for each fund.

SECTION 16. IC 6-3.5-1.5-1, AS AMENDED BY P.L.146-2008, SECTION 334, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 1. (a) The department of local government finance and the department of state revenue shall, before July 1 of each year, jointly calculate the county adjusted income tax rate or county option income tax rate (as applicable) that must be imposed in a county to raise income tax revenue in the following year equal to the sum of the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of:

(1) the department of local government finance's estimate of the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all civil taxing units in the county for the ensuing calendar year (before any adjustment under IC 6-1.1-18.5-3(g) or IC 6-1.1-18.5-3(h) for the ensuing calendar year); minus

(2) the sum of the maximum permissible ad valorem property tax levies calculated under IC 6-1.1-18.5 for all civil taxing units in the county for the current calendar year.

In the case of a civil taxing unit that is located in more than one (1) county, the department of local government finance shall, for purposes of making the determination under this subdivision, apportion the civil taxing unit's maximum permissible ad valorem property tax levy among the counties in which the civil taxing unit is located.

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1 STEP TWO: This STEP applies only to property taxes first due
 2 and payable before January 1, 2009. Determine the greater of zero
 3 (0) or the result of:

4 (1) the department of local government finance's estimate of
 5 the family and children property tax levy that will be imposed
 6 by the county under IC 12-19-7-4 for the ensuing calendar year
 7 (before any adjustment under IC 12-19-7-4(b) for the ensuing
 8 calendar year); minus

9 (2) the county's family and children property tax levy imposed
 10 by the county under IC 12-19-7-4 for the current calendar year.

11 STEP THREE: This STEP applies only to property taxes first due
 12 and payable before January 1, 2009. Determine the greater of zero
 13 (0) or the result of:

14 (1) the department of local government finance's estimate of
 15 the children's psychiatric residential treatment services
 16 property tax levy that will be imposed by the county under
 17 IC 12-19-7.5-6 for the ensuing calendar year (before any
 18 adjustment under IC 12-19-7.5-6(b) for the ensuing calendar
 19 year); minus

20 (2) the children's psychiatric residential treatment services
 21 property tax imposed by the county under IC 12-19-7.5-6 for
 22 the current calendar year.

23 STEP FOUR: Determine the greater of zero (0) or the result of:

24 (1) the department of local government finance's estimate of
 25 the county's maximum community mental health centers
 26 property tax levy under IC 12-29-2-2 for the ensuing calendar
 27 year (before any adjustment under IC 12-29-2-2(c) for the
 28 ensuing calendar year); minus

29 (2) the county's maximum community mental health centers
 30 property tax levy under IC 12-29-2-2 for the current calendar
 31 year.

32 (b) In the case of a county that wishes to impose a tax rate under
 33 IC 6-3.5-1.1-24 or IC 6-3.5-6-30 (as applicable) for the first time, the
 34 department of local government finance and the department of state
 35 revenue shall jointly estimate the amount that will be calculated under
 36 subsection (a) in the second year after the tax rate is first imposed. The
 37 department of local government finance and the department of state
 38 revenue shall calculate the tax rate under IC 6-3.5-1.1-24 or
 39 IC 6-3.5-6-30 (as applicable) that must be imposed in the county in the
 40 second year after the tax rate is first imposed to raise income tax
 41 revenue equal to the estimate under this subsection.

42 (c) The department and the department of local government finance

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shall make the calculations under subsections (a) and (b) based on the best information available at the time the calculation is made.

(d) Notwithstanding IC 6-3.5-1.1-24(h) and IC 6-3.5-6-30(h), if a county has adopted an income tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 to replace property tax levy growth, the part of the tax rate under IC 6-3.5-1.1-24 or IC 6-3.5-6-30 that was used before January 1, 2009, to reduce levy growth in the county family and children's fund property tax levy and the children's psychiatric residential treatment services property tax levy shall instead be used for property tax relief in the same manner that a tax rate under IC 6-3.5-1.1-26 or ~~IC 6-3.5-6-30~~ **IC 6-3.5-6-32** is used for property tax relief.

SECTION 17. IC 6-3.5-6-30, AS AMENDED BY P.L.146-2008, SECTION 341, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 30. (a) In a county in which the county option income tax is in effect, the county income tax council may, before August 1 of a year, adopt an ordinance to impose or increase (as applicable) a tax rate under this section.

(b) In a county in which neither the county option adjusted gross income tax nor the county option income tax is in effect, the county income tax council may, before August 1 of a year, adopt an ordinance to impose a tax rate under this section.

(c) An ordinance adopted under this section takes effect October 1 of the year in which the ordinance is adopted. If a county income tax council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(d) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(e) The following apply only in the year in which a county income tax council first imposes a tax rate under this section:

(1) The county income tax council shall, in the ordinance imposing the tax rate, specify the tax rate for each of the following two (2) years.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is imposed through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in that year; multiplied by

(B) the following:

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(i) In a county containing a consolidated city, one and five-tenths (1.5).

(ii) In a county other than a county containing a consolidated city, two (2).

(3) The tax rate that must be imposed in the county from October 1 of the following year through September 30 of the year after the following year is the tax rate determined for the county under IC 6-3.5-1.5-1(b). The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(4) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) (before its repeal), IC 12-19-7.5-6(b) (before its repeal), and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year and to property taxes first due and payable in the calendar year after the ensuing calendar year.

(f) The following apply only in a year in which a county income tax council increases a tax rate under this section:

(1) The county income tax council shall, in the ordinance increasing the tax rate, specify the tax rate for the following year.

(2) The tax rate that must be imposed in the county from October 1 of the year in which the tax rate is increased through September 30 of the following year is equal to the result of:

(A) the tax rate determined for the county under IC 6-3.5-1.5-1(a) in the year the tax rate is increased; plus

(B) the tax rate currently in effect in the county under this section.

The tax rate under this subdivision continues in effect in later years unless the tax rate is increased under this section.

(3) The levy limitations in IC 6-1.1-18.5-3(g), IC 6-1.1-18.5-3(h), IC 12-19-7-4(b) (before its repeal), IC 12-19-7.5-6(b) (before its repeal), and IC 12-29-2-2(c) apply to property taxes first due and payable in the ensuing calendar year.

(g) The department of local government finance shall determine the following property tax replacement distribution amounts:

STEP ONE: Determine the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) for the county in the preceding year.

STEP TWO: For distribution to each civil taxing unit that in the year had a maximum permissible property tax levy limited under IC 6-1.1-18.5-3(g), determine the result of:

(1) the quotient of:

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(A) the part of the amount determined under STEP ONE of IC 6-3.5-1.5-1(a) in the preceding year that was attributable to the civil taxing unit; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP THREE: For distributions in 2009 and thereafter, the result of this STEP is zero (0). For distribution to the county for deposit in the county family and children's fund before 2009, determine the result of:

(1) the quotient of:

(A) the amount determined under STEP TWO of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FOUR: For distributions in 2009 and thereafter, the result of this STEP is zero (0). For distribution to the county for deposit in the county children's psychiatric residential treatment services fund before 2009, determine the result of:

(1) the quotient of:

(A) the amount determined under STEP THREE of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

STEP FIVE: For distribution to the county for community mental health center purposes, determine the result of:

(1) the quotient of:

(A) the amount determined under STEP FOUR of IC 6-3.5-1.5-1(a) in the preceding year; divided by

(B) the STEP ONE amount; multiplied by

(2) the tax revenue received by the county treasurer under this section.

Except as provided in subsection (m), the county treasurer shall distribute the portion of the certified distribution that is attributable to a tax rate under this section as specified in this section. The county treasurer shall make the distributions under this subsection at the same time that distributions are made to civil taxing units under section 18 of this chapter.

(h) Notwithstanding sections 12 and 12.5 of this chapter, a county income tax council may not decrease or rescind a tax rate imposed

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under this ~~chapter~~ section.

(i) The tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter; or

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b).

(j) The tax levy under this section shall not be considered for purposes of computing the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of those provisions) or for purposes of the credit under IC 6-1.1-20.6.

(k) A distribution under this section shall be treated as a part of the receiving civil taxing unit's property tax levy for that year for purposes of fixing its budget and for determining the distribution of taxes that are distributed on the basis of property tax levies.

(l) If a county income tax council imposes a tax rate under this section, the county option income tax rate dedicated to locally funded homestead credits in the county may not be decreased.

(m) In the year following the year in which a county first imposes a tax rate under this section:

(1) one-third ($1/3$) of the tax revenue that is attributable to the tax rate under this section must be deposited in the county stabilization fund established under subsection (o), in the case of a county containing a consolidated city; and

(2) one-half ($1/2$) of the tax revenue that is attributable to the tax rate under this section must be deposited in the county stabilization fund established under subsection (o), in the case of a county not containing a consolidated city.

(n) A pledge of county option income taxes does not apply to revenue attributable to a tax rate under this section.

(o) A county stabilization fund is established in each county that imposes a tax rate under this section. The county stabilization fund shall be administered by the county auditor. If for a year the certified distributions attributable to a tax rate under this section exceed the amount calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section, the excess shall be deposited in the county stabilization fund. Money shall be distributed from the county stabilization fund in a year by the county auditor to political

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subdivisions entitled to a distribution of tax revenue attributable to the tax rate under this section if:

(1) the certified distributions attributable to a tax rate under this section are less than the amount calculated under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) that is used by the department of local government finance and the department of state revenue to determine the tax rate under this section for a year; or

(2) the certified distributions attributable to a tax rate under this section in a year are less than the certified distributions attributable to a tax rate under this section in the preceding year.

However, subdivision (2) does not apply to the year following the first year in which certified distributions of revenue attributable to the tax rate under this section are distributed to the county.

(p) Notwithstanding any other provision, a tax rate imposed under this section may not exceed one percent (1%).

(q) A county income tax council must each year hold at least one (1) public meeting at which the county council discusses whether the tax rate under this section should be imposed or increased.

(r) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(s) Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the additional tax rate under this section.

SECTION 18. IC 12-20-25-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:
Sec. 45. (a) Notwithstanding IC 6-3.5-6, after the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter and if the county option income tax is imposed under this chapter, the county fiscal body may adopt an ordinance to:

(1) ~~increase the percentage~~ allow a credit ~~allowed~~ for homesteads in the county under ~~IC 6-1.1-20.9-2~~; IC 6-3.5-6-13; or

(2) reduce the county option income tax rate for resident county taxpayers to a rate not less than the greater of:

(A) the minimum rate necessary to satisfy the requirements of section 43 of this chapter; or

(B) the minimum rate necessary to satisfy the requirements of sections 43 and 46(2) of this chapter if an ordinance is adopted under subdivision (1).

(b) A county fiscal body may not ~~increase the~~ set a percentage

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credit allowed for homesteads in such a manner that ~~more than eight percent (8%) is added to the percentage established under IC 6-3.5-6-13(d); exceeds the maximum homestead credit permitted under IC 6-3.5-6-13.~~

(c) The increase in the homestead credit percentage must be uniform for all homesteads in a county.

(d) In an ordinance that increases the homestead credit percentage, the county fiscal body may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect January 1 of the next calendar year.

(g) An ordinance adopted under this section for a county is not applicable for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 19. IC 12-20-25-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 46. After the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter, if the county adjusted gross income tax or the county option income tax is imposed under this chapter, any revenues from the county adjusted gross income tax or the county option income tax imposed under this chapter shall be distributed in the following priority:

(1) To satisfy the requirements of section 43 of this chapter.

(2) If the county option income tax imposed under this chapter is in effect, to replace the amount, if any, of property tax revenue lost due to the allowance of ~~an increased~~ a homestead credit within the county **under IC 6-3.5-6-13.**

(3) To be used as a certified distribution as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.

SECTION 20. IC 36-8-19-8, AS AMENDED BY P.L.128-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The

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purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. **Except as provided in IC 6-1.1-18.5-10.5**, after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an

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identical amount to be transferred.

(f) The tax under this section is ~~not~~ subject to the tax levy limitations imposed ~~on civil taxing units under IC 6-1.1-18.5~~ for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001: **under IC 6-1.1-18.5-10.5.**

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory; the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and

(2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

SECTION 21. IC 6-1.1-20.6-3.5 IS REPEALED [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)].

SECTION 22. P.L.146-2008, SECTION 840 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 840. (a) For property taxes first due and payable after December 31, 2008, the department of local government finance shall reduce the maximum permissible ad valorem property tax levy of any civil taxing unit and special service district by the amount of the payment to be made in 2009 by the state of Indiana under IC 5-10.3-11, as amended by this act, for benefits to members (and survivors and beneficiaries of members) of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(b) **It is the intent of the general assembly that this SECTION be applied in the manner specified by the department of local government finance in its memorandum "Pre-1977 Police and Firefighters' Pension" dated July 23, 2008. An action taken in conformity with the memorandum is legalized and validated.**

(c) **This SECTION expires January 1, 2011.**

SECTION 23. [EFFECTIVE MARCH 1, 2008 (RETROACTIVE)]

(a) **The amendments made by this act to:**

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- 1 (1) IC 6-1.1-5.5-5;
- 2 (2) IC 6-1.1-12-9;
- 3 (3) IC 6-1.1-12-17.8;
- 4 (4) IC 6-1.1-12-17.9;
- 5 (5) IC 6-1.1-12-37;
- 6 (6) IC 6-1.1-12-43;
- 7 (7) IC 6-1.1-12-44;
- 8 (8) IC 6-1.1-17-0.5; and
- 9 (9) IC 6-1.1-20.6-8.5;
- 10 and the repeal of IC 6-1.1-20.6-3.5 by this act apply to deductions
- 11 and credits that affect property taxes first due and payable for
- 12 assessment dates after February 29, 2008, regardless of whether an
- 13 application for a particular deduction or credit was filed before
- 14 January 1, 2009.
- 15 (b) This SECTION expires July 1, 2011.
- 16 SECTION 24. [EFFECTIVE JULY 1, 2009] (a) IC 6-1.1-20-1.9, as
- 17 amended by this act, applies only to a petition requesting the
- 18 application of the local public question process to bonds or a lease
- 19 for which the preliminary determination to issue the bonds or
- 20 enter into the lease is published under IC 6-1.1-20-3.5(b)(2) after
- 21 June 30, 2009.
- 22 (b) This SECTION expires July 1, 2011.
- 23 SECTION 25. An emergency is declared for this act.

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